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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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MATTHEW RAMIREZ,

Plaintiff,

v.

WILLIAM GITTERE, *et al.*,

Defendants.

Case No. 3:20-cv-00300-MMD-WGC

ORDER

I. DISCUSSION

On April 23, 2021, the Court issued a screening order permitting the portion of Count I alleging an Eighth Amendment excessive force claim to proceed against Defendant Montez and dismissing with leave to amend the equal protection and § 1985 claims. (ECF No. 5 at 12). The Court granted Plaintiff 30 days from the date of that order to file an amended complaint curing the deficiencies of the equal protection and § 1985 claims. (*Id.*). The Court specifically stated that, if Plaintiff chose not to file an amended complaint, the action would proceed on the portion of Count I alleging an Eighth Amendment excessive force claim against Defendant Montez. (*Id.*) Plaintiff has not filed an amended complaint, so this action shall proceed on that claim.

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1 **II. CONCLUSION**

2 For the foregoing reasons, IT IS ORDERED that, pursuant to the Court's screening
3 order (ECF No. 5), this action shall proceed on the portion of Count I alleging an Eighth
4 Amendment excessive force claim against Defendant Montez.

5 IT IS FURTHER ORDERED that given the nature of the claim(s) that the Court has
6 permitted to proceed, this action is STAYED for ninety (90) days to allow Plaintiff and
7 Defendant(s) an opportunity to settle their dispute before the \$350.00 filing fee is paid, an
8 answer is filed, or the discovery process begins. During this ninety-day stay period, no
9 other pleadings or papers shall be filed in this case, and the parties shall not engage in
10 any discovery. The Court will refer this case to the Court's Inmate Early Mediation
11 Program, and the Court will enter a subsequent order. Regardless, on or before ninety
12 (90) days from the date this order is entered, the Office of the Attorney General shall file
13 the report form attached to this order regarding the results of the 90-day stay, even if a
14 stipulation for dismissal is entered prior to the end of the 90-day stay. If the parties
15 proceed with this action, the Court will then issue an order setting a date for Defendants
16 to file an answer or other response. Following the filing of an answer, the Court will issue
17 a scheduling order setting discovery and dispositive motion deadlines.

18 IT IS FURTHER ORDERED that "settlement" may or may not include payment of
19 money damages. It also may or may not include an agreement to resolve Plaintiff's issues
20 differently. A compromise agreement is one in which neither party is completely satisfied
21 with the result, but both have given something up and both have obtained something in
22 return.


23 IT IS FURTHER ORDERED that if the case does not settle, Plaintiff will be required
24 to pay the full \$350.00 filing fee. This fee cannot be waived. If Plaintiff is allowed to
25 proceed in forma pauperis, the fee will be paid in installments from his prison trust
26 account. 28 U.S.C. § 1915(b). If Plaintiff is not allowed to proceed in forma pauperis, the
27 \$350.00 will be due immediately.

1 IT IS FURTHER ORDERED that if any party seeks to have this case excluded from
2 the inmate mediation program, that party shall file a "motion to exclude case from
3 mediation" on or before twenty-one (21) days from the date of this order. The responding
4 party shall have seven (7) days to file a response. No reply shall be filed. Thereafter, the
5 Court will issue an order, set the matter for hearing, or both.

6 IT IS FURTHER ORDERED that the Clerk of the Court shall electronically SERVE
7 a copy of this order, the original screening order (ECF No. 5) and a copy of Plaintiff's
8 complaint (ECF No. 6) on the Office of the Attorney General of the State of Nevada, by
9 adding the Attorney General of the State of Nevada to the docket sheet. This does not
10 indicate acceptance of service.

11 IT IS FURTHER ORDERED that the Attorney General's Office shall advise the
12 Court within twenty-one (21) days of the date of the entry of this order whether it will enter
13 a limited notice of appearance on behalf of Defendants for the purpose of settlement. No
14 defenses or objections, including lack of service, shall be waived as a result of the filing
15 of the limited notice of appearance.

16 DATED: June 1, 2021.

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18 UNITED STATES MAGISTRATE JUDGE